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REFERENCE TITLE: **military sales tax exemption**

State of Arizona
House of Representatives
Forty-seventh Legislature
First Regular Session
2005

HB 2585

Introduced by
Representatives Weiers JP, Burns J, Chase, Mason, Smith, Weiers J,
Senators Bee, Blendu, Harper, Martin: Representatives Aguirre A, Allen J,
Barnes, Biggs, Bradley, Brown, Burges, Cajero Bedford, Garcia M, Gorman,
Gray C, Groe, Hershberger, Jones, Kirkpatrick, Knaperek, McClure,
McComish, McLain, Murphy, Nelson, Nichols, O'Halleran, Paton, Pearce,
Robson, Tom, Tully, Senators Burns, Cannell, Flake, Giffords, Gould, Gray,
Johnson, Mitchell, Verschoor

AN ACT

AMENDING SECTIONS 42-5061 AND 42-5159, ARIZONA REVISED STATUTES; RELATING TO TRANSACTION PRIVILEGE AND USE TAX.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-5061, Arizona Revised Statutes, is amended to
3 read:

4 42-5061. Retail classification: definitions

5 A. The retail classification is comprised of the business of selling
6 tangible personal property at retail. The tax base for the retail
7 classification is the gross proceeds of sales or gross income derived from
8 the business. The tax imposed on the retail classification does not apply to
9 the gross proceeds of sales or gross income from:

10 1. Professional or personal service occupations or businesses which
11 involve sales or transfers of tangible personal property only as
12 inconsequential elements.

13 2. Services rendered in addition to selling tangible personal property
14 at retail.

15 3. Sales of warranty or service contracts. The storage, use or
16 consumption of tangible personal property provided under the conditions of
17 such contracts is subject to tax under section 42-5156.

18 4. Sales of tangible personal property by any nonprofit organization
19 organized and operated exclusively for charitable purposes and recognized by
20 the United States internal revenue service under section 501(c)(3) of the
21 internal revenue code.

22 5. Sales to persons engaged in business classified under the
23 restaurant classification of articles used by human beings for food, drink or
24 condiment, whether simple, mixed or compounded.

25 6. Business activity which is properly included in any other business
26 classification which is taxable under article 1 of this chapter.

27 7. The sale of stocks and bonds.

28 8. Drugs and medical oxygen, including delivery hose, mask or tent,
29 regulator and tank, on the prescription of a member of the medical, dental or
30 veterinarian profession who is licensed by law to administer such substances.

31 9. Prosthetic appliances as defined in section 23-501 prescribed or
32 recommended by a health professional licensed pursuant to title 32, chapter
33 7, 8, 11, 13, 14, 15, 16, 17 or 29.

34 10. Insulin, insulin syringes and glucose test strips.

35 11. Prescription eyeglasses or contact lenses.

36 12. Hearing aids as defined in section 36-1901.

37 13. Durable medical equipment which has a centers for medicare and
38 medicaid services common procedure code, is designated reimbursable by
39 medicare, is prescribed by a person who is licensed under title 32, chapter
40 7, 8, 13, 14, 15, 17 or 29, can withstand repeated use, is primarily and
41 customarily used to serve a medical purpose, is generally not useful to a
42 person in the absence of illness or injury and is appropriate for use in the
43 home.

44 14. Sales to nonresidents of this state for use outside this state if
45 the vendor ships or delivers the tangible personal property out of this
46 state.

1 15. Food, as provided in and subject to the conditions of article 3 of
2 this chapter and section 42-5074.

3 16. Items purchased with United States department of agriculture food
4 stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat.
5 958) or food instruments issued under section 17 of the child nutrition act
6 (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code
7 section 1786).

8 17. Textbooks by any bookstore that are required by any state
9 university or community college.

10 18. Food and drink to a person who is engaged in business which is
11 classified under the restaurant classification and which provides such food
12 and drink without monetary charge to its employees for their own consumption
13 on the premises during the employees' hours of employment.

14 19. Articles of food, drink or condiment and accessory tangible
15 personal property to a school district if such articles and accessory
16 tangible personal property are to be prepared and served to persons for
17 consumption on the premises of a public school within the district during
18 school hours.

19 20. Lottery tickets or shares pursuant to title 5, chapter 5,
20 article 1.

21 21. The sale of precious metal bullion and monetized bullion to the
22 ultimate consumer, but the sale of coins or other forms of money for
23 manufacture into jewelry or works of art is subject to the tax. In this
24 paragraph:

25 (a) "Monetized bullion" means coins and other forms of money which are
26 manufactured from gold, silver or other metals and which have been or are
27 used as a medium of exchange in this or another state, the United States or a
28 foreign nation.

29 (b) "Precious metal bullion" means precious metal, including gold,
30 silver, platinum, rhodium and palladium, which has been smelted or refined so
31 that its value depends on its contents and not on its form.

32 22. Motor vehicle fuel and use fuel which are subject to a tax imposed
33 under title 28, chapter 16, article 1, sales of use fuel to a holder of a
34 valid single trip use fuel tax permit issued under section 28-5739, sales of
35 aviation fuel which are subject to the tax imposed under section 28-8344 and
36 sales of jet fuel which are subject to the tax imposed under article 8 of
37 this chapter.

38 23. Tangible personal property sold to a person engaged in the business
39 of leasing or renting such property under the personal property rental
40 classification if such property is to be leased or rented by such person.

41 24. Tangible personal property sold in interstate or foreign commerce
42 if prohibited from being so taxed by the Constitution of the United States or
43 the constitution of this state.

44 25. Tangible personal property sold to:

1 (a) A qualifying hospital as defined in section 42-5001.

2 (b) A qualifying health care organization as defined in section
3 42-5001 if the tangible personal property is used by the organization solely
4 to provide health and medical related educational and charitable services.

5 (c) A qualifying health care organization as defined in section
6 42-5001 if the organization is dedicated to providing educational,
7 therapeutic, rehabilitative and family medical education training for blind,
8 visually impaired and multihandicapped children from the time of birth to age
9 twenty-one.

10 (d) A qualifying community health center as defined in section
11 42-5001.

12 (e) A nonprofit charitable organization that has qualified under
13 section 501(c)(3) of the internal revenue code and that regularly serves
14 meals to the needy and indigent on a continuing basis at no cost.

15 (f) For taxable periods beginning from and after June 30, 2001, a
16 nonprofit charitable organization that has qualified under section 501(c)(3)
17 of the internal revenue code and that provides residential apartment housing
18 for low income persons over sixty-two years of age in a facility that
19 qualifies for a federal housing subsidy, if the tangible personal property is
20 used by the organization solely to provide residential apartment housing for
21 low income persons over sixty-two years of age in a facility that qualifies
22 for a federal housing subsidy.

23 26. Magazines or other periodicals or other publications by this state
24 to encourage tourist travel.

25 27. Tangible personal property sold to a person that is subject to tax
26 under this article by reason of being engaged in business classified under
27 the prime contracting classification under section 42-5075, or to a
28 subcontractor working under the control of a prime contractor that is subject
29 to tax under article 1 of this chapter, if the property so sold is any of the
30 following:

31 (a) Incorporated or fabricated by the person into any real property,
32 structure, project, development or improvement as part of the business.

33 (b) Used in environmental response or remediation activities under
34 section 42-5075, subsection B, paragraph 6.

35 (c) Incorporated or fabricated by the person into any lake facility
36 development in a commercial enhancement reuse district under conditions
37 prescribed for the deduction allowed by section 42-5075, subsection B,
38 paragraph 8.

39 28. The sale of a motor vehicle to:

40 (a) A nonresident of this state if the purchaser's state of residence
41 does not allow a corresponding use tax exemption to the tax imposed by
42 article 1 of this chapter and if the nonresident has secured a special thirty
43 day nonresident registration permit for the vehicle as prescribed by sections
44 28-2154 and 28-2154.01.

45 (b) An enrolled member of an Indian tribe who resides on the Indian
46 reservation established for that tribe.

1 29. Tangible personal property purchased in this state by a nonprofit
2 charitable organization that has qualified under section 501(c)(3) of the
3 United States internal revenue code and that engages in and uses such
4 property exclusively in programs for mentally or physically handicapped
5 persons if the programs are exclusively for training, job placement,
6 rehabilitation or testing.

7 30. Sales of tangible personal property by a nonprofit organization
8 that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6)
9 of the internal revenue code if the organization is associated with a major
10 league baseball team or a national touring professional golfing association
11 and no part of the organization's net earnings inures to the benefit of any
12 private shareholder or individual.

13 31. Sales of commodities, as defined by title 7 United States Code
14 section 2, that are consigned for resale in a warehouse in this state in or
15 from which the commodity is deliverable on a contract for future delivery
16 subject to the rules of a commodity market regulated by the United States
17 commodity futures trading commission.

18 32. Sales of tangible personal property by a nonprofit organization
19 that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6),
20 501(c)(7) or 501(c)(8) of the internal revenue code if the organization
21 sponsors or operates a rodeo featuring primarily farm and ranch animals and
22 no part of the organization's net earnings inures to the benefit of any
23 private shareholder or individual.

24 33. Sales of seeds, seedlings, roots, bulbs, cuttings and other
25 propagative material to persons who use those items to commercially produce
26 agricultural, horticultural, viticultural or floricultural crops in this
27 state.

28 34. Machinery, equipment, technology or related supplies that are only
29 useful to assist a person who is physically disabled as defined in section
30 46-191, has a developmental disability as defined in section 36-551 or has a
31 head injury as defined in section 41-3201 to be more independent and
32 functional.

33 35. Sales of tangible personal property that is shipped or delivered
34 directly to a destination outside the United States for use in that foreign
35 country.

36 36. Sales of natural gas or liquefied petroleum gas used to propel a
37 motor vehicle.

38 37. Paper machine clothing, such as forming fabrics and dryer felts,
39 sold to a paper manufacturer and directly used or consumed in paper
40 manufacturing.

41 38. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity
42 sold to a qualified environmental technology manufacturer, producer or
43 processor as defined in section 41-1514.02 and directly used or consumed in
44 the generation or provision of on-site power or energy solely for
45 environmental technology manufacturing, producing or processing or
46 environmental protection. This paragraph shall apply for fifteen full

1 consecutive calendar or fiscal years from the date the first paper
2 manufacturing machine is placed in service. In the case of an environmental
3 technology manufacturer, producer or processor who does not manufacture
4 paper, the time period shall begin with the date the first manufacturing,
5 processing or production equipment is placed in service.

6 39. Sales of liquid, solid or gaseous chemicals used in manufacturing,
7 processing, fabricating, mining, refining, metallurgical operations, research
8 and development and, beginning on January 1, 1999, printing, if using or
9 consuming the chemicals, alone or as part of an integrated system of
10 chemicals, involves direct contact with the materials from which the product
11 is produced for the purpose of causing or permitting a chemical or physical
12 change to occur in the materials as part of the production process. This
13 paragraph does not include chemicals that are used or consumed in activities
14 such as packaging, storage or transportation but does not affect any
15 deduction for such chemicals that is otherwise provided by this section. For
16 purposes of this paragraph, "printing" means a commercial printing operation
17 and includes job printing, engraving, embossing, copying and bookbinding.

18 40. Through December 31, 1994, personal property liquidation
19 transactions, conducted by a personal property liquidator. From and after
20 December 31, 1994, personal property liquidation transactions shall be
21 taxable under this section provided that nothing in this subsection shall be
22 construed to authorize the taxation of casual activities or transactions
23 under this chapter. In this paragraph:

24 (a) "Personal property liquidation transaction" means a sale of
25 personal property made by a personal property liquidator acting solely on
26 behalf of the owner of the personal property sold at the dwelling of the
27 owner or upon the death of any owner, on behalf of the surviving spouse, if
28 any, any devisee or heir or the personal representative of the estate of the
29 deceased, if one has been appointed.

30 (b) "Personal property liquidator" means a person who is retained to
31 conduct a sale in a personal property liquidation transaction.

32 41. Sales of food, drink and condiment for consumption within the
33 premises of any prison, jail or other institution under the jurisdiction of
34 the state department of corrections, the department of public safety, the
35 department of juvenile corrections or a county sheriff.

36 42. A motor vehicle and any repair and replacement parts and tangible
37 personal property becoming a part of such motor vehicle sold to a motor
38 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
39 and who is engaged in the business of leasing or renting such property.

40 43. Livestock and poultry feed, salts, vitamins and other additives for
41 livestock or poultry consumption that are sold to persons who are engaged in
42 producing livestock, poultry, or livestock or poultry products or who are
43 engaged in feeding livestock or poultry commercially. For purposes of this
44 paragraph, "poultry" includes ratites.

45 44. Sales of implants used as growth promotants and injectable
46 medicines, not already exempt under paragraph 8 of this subsection, for

1 livestock or poultry owned by or in possession of persons who are engaged in
2 producing livestock, poultry, or livestock or poultry products or who are
3 engaged in feeding livestock or poultry commercially. For purposes of this
4 paragraph, "poultry" includes ratites.

5 45. Sales of motor vehicles at auction to nonresidents of this state
6 for use outside this state if the vehicles are shipped or delivered out of
7 this state, regardless of where title to the motor vehicles passes or its
8 free on board point.

9 46. Tangible personal property sold to a person engaged in business and
10 subject to tax under the transient lodging classification if the tangible
11 personal property is a personal hygiene item or articles used by human beings
12 for food, drink or condiment, except alcoholic beverages, which are furnished
13 without additional charge to and intended to be consumed by the transient
14 during the transient's occupancy.

15 47. Sales of alternative fuel, as defined in section 1-215, to a used
16 oil fuel burner who has received a permit to burn used oil or used oil fuel
17 under section 49-426 or 49-480.

18 48. Sales of materials that are purchased by or for publicly funded
19 libraries including school district libraries, charter school libraries,
20 community college libraries, state university libraries or federal, state,
21 county or municipal libraries for use by the public as follows:

22 (a) Printed or photographic materials, beginning August 7, 1985.

23 (b) Electronic or digital media materials, beginning July 17, 1994.

24 49. Tangible personal property sold to a commercial airline and
25 consisting of food, beverages and condiments and accessories used for serving
26 the food and beverages, if those items are to be provided without additional
27 charge to passengers for consumption in flight. For purposes of this
28 paragraph, "commercial airline" means a person holding a federal certificate
29 of public convenience and necessity or foreign air carrier permit for air
30 transportation to transport persons, property or United States mail in
31 intrastate, interstate or foreign commerce.

32 50. Sales of alternative fuel vehicles if the vehicle was manufactured
33 as a diesel fuel vehicle and converted to operate on alternative fuel and
34 equipment that is installed in a conventional diesel fuel motor vehicle to
35 convert the vehicle to operate on an alternative fuel, as defined in section
36 1-215.

37 51. Sales of any spirituous, vinous or malt liquor by a person that is
38 licensed in this state as a wholesaler by the department of liquor licenses
39 and control pursuant to title 4, chapter 2, article 1.

40 52. Sales of tangible personal property to be incorporated or installed
41 as part of environmental response or remediation activities under section
42 42-5075, subsection B, paragraph 6.

43 53. Sales of tangible personal property by a nonprofit organization
44 that is exempt from taxation under section 501(c)(6) of the internal revenue
45 code if the organization produces, organizes or promotes cultural or civic

1 related festivals or events and no part of the organization's net earnings
2 inures to the benefit of any private shareholder or individual.

3 B. In addition to the deductions from the tax base prescribed by
4 subsection A of this section, the gross proceeds of sales or gross income
5 derived from sales of the following categories of tangible personal property
6 shall be deducted from the tax base:

7 1. Machinery, or equipment, used directly in manufacturing,
8 processing, fabricating, job printing, refining or metallurgical
9 operations. The terms "manufacturing", "processing", "fabricating", "job
10 printing", "refining" and "metallurgical" as used in this paragraph refer to
11 and include those operations commonly understood within their ordinary
12 meaning. "Metallurgical operations" includes leaching, milling,
13 precipitating, smelting and refining.

14 2. Mining machinery, or equipment, used directly in the process of
15 extracting ores or minerals from the earth for commercial purposes, including
16 equipment required to prepare the materials for extraction and handling,
17 loading or transporting such extracted material to the surface. "Mining"
18 includes underground, surface and open pit operations for extracting ores and
19 minerals.

20 3. Tangible personal property sold to persons engaged in business
21 classified under the telecommunications classification and consisting of
22 central office switching equipment, switchboards, private branch exchange
23 equipment, microwave radio equipment and carrier equipment including optical
24 fiber, coaxial cable and other transmission media which are components of
25 carrier systems.

26 4. Machinery, equipment or transmission lines used directly in
27 producing or transmitting electrical power, but not including
28 distribution. Transformers and control equipment used at transmission
29 substation sites constitute equipment used in producing or transmitting
30 electrical power.

31 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
32 to be used as breeding or production stock, including sales of breedings or
33 ownership shares in such animals used for breeding or production.

34 6. Pipes or valves four inches in diameter or larger used to transport
35 oil, natural gas, artificial gas, water or coal slurry, including compressor
36 units, regulators, machinery and equipment, fittings, seals and any other
37 part that is used in operating the pipes or valves.

38 7. Aircraft, navigational and communication instruments and other
39 accessories and related equipment sold to:

40 (a) A person holding a federal certificate of public convenience and
41 necessity, a supplemental air carrier certificate under federal aviation
42 regulations (14 Code of Federal Regulations part 121) or a foreign air
43 carrier permit for air transportation for use as or in conjunction with or
44 becoming a part of aircraft to be used to transport persons, property or
45 United States mail in intrastate, interstate or foreign commerce.

1 (b) Any foreign government for use by such government outside of this
2 state.

3 (c) Persons who are not residents of this state and who will not use
4 such property in this state other than in removing such property from this
5 state. This subdivision also applies to corporations that are not
6 incorporated in this state, regardless of maintaining a place of business in
7 this state, if the principal corporate office is located outside this state
8 and the property will not be used in this state other than in removing the
9 property from this state.

10 8. Machinery, tools, equipment and related supplies used or consumed
11 directly in repairing, remodeling or maintaining aircraft, aircraft engines
12 or aircraft component parts by or on behalf of a certificated or licensed
13 carrier of persons or property.

14 9. Railroad rolling stock, rails, ties and signal control equipment
15 used directly to transport persons or property.

16 10. Machinery or equipment used directly to drill for oil or gas or
17 used directly in the process of extracting oil or gas from the earth for
18 commercial purposes.

19 11. Buses or other urban mass transit vehicles which are used directly
20 to transport persons or property for hire or pursuant to a governmentally
21 adopted and controlled urban mass transportation program and which are sold
22 to bus companies holding a federal certificate of convenience and necessity
23 or operated by any city, town or other governmental entity or by any person
24 contracting with such governmental entity as part of a governmentally adopted
25 and controlled program to provide urban mass transportation.

26 12. Groundwater measuring devices required under section 45-604.

27 13. New machinery and equipment consisting of tractors, tractor-drawn
28 implements, self-powered implements, machinery and equipment necessary for
29 extracting milk, and machinery and equipment necessary for cooling milk and
30 livestock, and drip irrigation lines not already exempt under paragraph 6 of
31 this subsection and that are used for commercial production of agricultural,
32 horticultural, viticultural and floricultural crops and products in this
33 state. In this paragraph:

34 (a) "New machinery and equipment" means machinery and equipment which
35 have never been sold at retail except pursuant to leases or rentals which do
36 not total two years or more.

37 (b) "Self-powered implements" includes machinery and equipment that
38 are electric-powered.

39 14. Machinery or equipment used in research and development. In this
40 paragraph, "research and development" means basic and applied research in the
41 sciences and engineering, and designing, developing or testing prototypes,
42 processes or new products, including research and development of computer
43 software that is embedded in or an integral part of the prototype or new
44 product or that is required for machinery or equipment otherwise exempt under
45 this section to function effectively. Research and development do not
46 include manufacturing quality control, routine consumer product testing,

1 market research, sales promotion, sales service, research in social sciences
2 or psychology, computer software research that is not included in the
3 definition of research and development, or other nontechnological activities
4 or technical services.

5 15. Machinery and equipment that are purchased by or on behalf of the
6 owners of a soundstage complex and primarily used for motion picture,
7 multimedia or interactive video production in the complex. This paragraph
8 applies only if the initial construction of the soundstage complex begins
9 after June 30, 1996 and before January 1, 2002 and the machinery and
10 equipment are purchased before the expiration of five years after the start
11 of initial construction. For purposes of this paragraph:

12 (a) "Motion picture, multimedia or interactive video production"
13 includes products for theatrical and television release, educational
14 presentations, electronic retailing, documentaries, music videos, industrial
15 films, CD-ROM, video game production, commercial advertising and television
16 episode production and other genres that are introduced through developing
17 technology.

18 (b) "Soundstage complex" means a facility of multiple stages including
19 production offices, construction shops and related areas, prop and costume
20 shops, storage areas, parking for production vehicles and areas that are
21 leased to businesses that complement the production needs and orientation of
22 the overall facility.

23 16. Tangible personal property that is used by either of the following
24 to receive, store, convert, produce, generate, decode, encode, control or
25 transmit telecommunications information:

26 (a) Any direct broadcast satellite television or data transmission
27 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
28 100.

29 (b) Any satellite television or data transmission facility, if both of
30 the following conditions are met:

31 (i) Over two-thirds of the transmissions, measured in megabytes,
32 transmitted by the facility during the test period were transmitted to or on
33 behalf of one or more direct broadcast satellite television or data
34 transmission services that operate pursuant to 47 Code of Federal Regulations
35 parts 25 and 100.

36 (ii) Over two-thirds of the transmissions, measured in megabytes,
37 transmitted by or on behalf of those direct broadcast television or data
38 transmission services during the test period were transmitted by the facility
39 to or on behalf of those services.

40 For purposes of subdivision (b) of this paragraph, "test period" means the
41 three hundred sixty-five day period beginning on the later of the date on
42 which the tangible personal property is purchased or the date on which the
43 direct broadcast satellite television or data transmission service first
44 transmits information to its customers.

45 17. Clean rooms that are used for manufacturing, processing,
46 fabrication or research and development, as defined in paragraph 14 of this

1 subsection, of semiconductor products. For purposes of this paragraph,
2 "clean room" means all property that comprises or creates an environment
3 where humidity, temperature, particulate matter and contamination are
4 precisely controlled within specified parameters, without regard to whether
5 the property is actually contained within that environment or whether any of
6 the property is affixed to or incorporated into real property. Clean room:

7 (a) Includes the integrated systems, fixtures, piping, movable
8 partitions, lighting and all property that is necessary or adapted to reduce
9 contamination or to control airflow, temperature, humidity, chemical purity
10 or other environmental conditions or manufacturing tolerances, as well as the
11 production machinery and equipment operating in conjunction with the clean
12 room environment.

13 (b) Does not include the building or other permanent, nonremovable
14 component of the building that houses the clean room environment.

15 18. Machinery and equipment used directly in the feeding of poultry,
16 the environmental control of housing for poultry, the movement of eggs within
17 a production and packaging facility or the sorting or cooling of eggs. This
18 exemption does not apply to vehicles used for transporting eggs.

19 19. Machinery or equipment, including related structural components,
20 that is employed in connection with manufacturing, processing, fabricating,
21 job printing, refining, mining, natural gas pipelines, metallurgical
22 operations, telecommunications, producing or transmitting electricity or
23 research and development and that is used directly to meet or exceed rules or
24 regulations adopted by the federal energy regulatory commission, the United
25 States environmental protection agency, the United States nuclear regulatory
26 commission, the Arizona department of environmental quality or a political
27 subdivision of this state to prevent, monitor, control or reduce land, water
28 or air pollution.

29 20. Machinery and equipment that are sold to a person engaged in the
30 commercial production of livestock, livestock products or agricultural,
31 horticultural, viticultural or floricultural crops or products in this state
32 and that are used directly and primarily to prevent, monitor, control or
33 reduce air, water or land pollution.

34 21. Machinery or equipment that enables a television station to
35 originate and broadcast or to receive and broadcast digital television
36 signals and that was purchased to facilitate compliance with the
37 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
38 Code section 336) and the federal communications commission order issued
39 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
40 not exempt any of the following:

41 (a) Repair or replacement parts purchased for the machinery or
42 equipment described in this paragraph.

43 (b) Machinery or equipment purchased to replace machinery or equipment
44 for which an exemption was previously claimed and taken under this paragraph.

(c) Any machinery or equipment purchased after the television station has ceased analog broadcasting, or purchased after November 1, 2009, whichever occurs first.

22. Qualifying equipment that is purchased from and after June 30, 2004 through June 30, 2014 by a qualified business for harvesting, transporting or the initial processing of forest products, including biomass, as provided in section 41-1516. To qualify for this deduction, the qualified business at the time of purchase must present its certification approved by the department.

C. The deductions provided by subsection B of this section do not include sales of:

1. Expendable materials. For purposes of this paragraph, expendable materials do not include any of the categories of tangible personal property specified in subsection B of this section regardless of the cost or useful life of that property.

2. Janitorial equipment and hand tools.

3. Office equipment, furniture and supplies.

4. Tangible personal property used in selling or distributing activities, other than the telecommunications transmissions described in subsection B, paragraph 16 of this section.

5. Motor vehicles required to be licensed by this state, except buses or other urban mass transit vehicles specifically exempted pursuant to subsection B, paragraph 11 of this section, without regard to the use of such motor vehicles.

6. Shops, buildings, docks, depots and all other materials of whatever kind or character not specifically included as exempt.

7. Motors and pumps used in drip irrigation systems.

D. In addition to the deductions from the tax base prescribed by subsection A of this section, there shall be deducted from the tax base the gross proceeds of sales or gross income derived from sales of machinery, equipment, materials and other tangible personal property used directly and predominantly to construct a qualified environmental technology manufacturing, producing or processing facility as described in section 41-1514.02. This subsection applies for ten full consecutive calendar or fiscal years after the start of initial construction.

E. In computing the tax base, gross proceeds of sales or gross income from retail sales of heavy trucks and trailers does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4051.

F. In computing the tax base, gross proceeds of sales or gross income from the sale of use fuel, as defined in section 28-5601, does not include any amount attributable to federal excise taxes imposed by 26 United States Code section 4091.

G. If a person is engaged in an occupation or business to which subsection A of this section applies, the person's books shall be kept so as to show separately the gross proceeds of sales of tangible personal property

1 and the gross income from sales of services, and if not so kept the tax shall
2 be imposed on the total of the person's gross proceeds of sales of tangible
3 personal property and gross income from services.

4 H. If a person is engaged in the business of selling tangible personal
5 property at both wholesale and retail, the tax under this section applies
6 only to the gross proceeds of the sales made other than at wholesale if the
7 person's books are kept so as to show separately the gross proceeds of sales
8 of each class, and if the books are not so kept, the tax under this section
9 applies to the gross proceeds of every sale so made.

10 I. A person who engages in manufacturing, baling, crating, boxing,
11 barreling, canning, bottling, sacking, preserving, processing or otherwise
12 preparing for sale or commercial use any livestock, agricultural or
13 horticultural product or any other product, article, substance or commodity
14 and who sells the product of such business at retail in this state is deemed,
15 as to such sales, to be engaged in business classified under the retail
16 classification. This subsection does not apply to businesses classified
17 under the:

- 18 1. Transporting classification.
- 19 2. Utilities classification.
- 20 3. Telecommunications classification.
- 21 4. Pipeline classification.
- 22 5. Private car line classification.
- 23 6. Publication classification.
- 24 7. Job printing classification.
- 25 8. Prime contracting classification.
- 26 9. Owner builder sales classification.
- 27 10. Restaurant classification.

28 J. The gross proceeds of sales or gross income derived from the
29 following shall be deducted from the tax base for the retail classification:

- 30 1. Sales made directly to the United States government or its
31 departments or agencies by a manufacturer, modifier, assembler or repairer.
- 32 2. Sales made directly to a manufacturer, modifier, assembler or
33 repairer if such sales are of any ingredient or component part of products
34 sold directly to the United States government or its departments or agencies
35 by the manufacturer, modifier, assembler or repairer.

36 3. Overhead materials or other tangible personal property that is used
37 in performing a contract between the United States government and a
38 manufacturer, modifier, assembler or repairer, including property used in
39 performing a subcontract with a government contractor who is a manufacturer,
40 modifier, assembler or repairer, to which title passes to the government
41 under the terms of the contract or subcontract.

42 4. Sales of overhead materials or other tangible personal property to
43 a manufacturer, modifier, assembler or repairer if the gross proceeds of
44 sales or gross income derived from the property by the manufacturer,
45 modifier, assembler or repairer will be exempt under paragraph 3 of this
46 subsection.

5. SALES MADE DIRECTLY TO REGULAR, RESERVE OR NATIONAL GUARD COMPONENTS OF THE UNIFORMED SERVICES OF THE UNITED STATES, INCLUDING THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD AND ANY OTHER AGENCY OR INSTRUMENTALITY OF THE UNITED STATES DEPARTMENT OF DEFENSE.

K. There shall be deducted from the tax base fifty per cent of the gross proceeds or gross income from any sale of tangible personal property made directly to the United States government or its departments or agencies, which is not deducted under subsection J of this section.

L. The department shall require every person claiming a deduction provided by subsection J or K of this section to file on forms prescribed by the department at such times as the department directs a sworn statement disclosing the name of the purchaser and the exact amount of sales on which the exclusion or deduction is claimed.

M. In computing the tax base, gross proceeds of sales or gross income does not include:

1. A manufacturer's cash rebate on the sales price of a motor vehicle if the buyer assigns the buyer's right in the rebate to the retailer.

2. The waste tire disposal fee imposed pursuant to section 44-1302.

N. There shall be deducted from the tax base the amount received from sales of solar energy devices, but the deduction shall not exceed five thousand dollars for each solar energy device. Before deducting any amount under this subsection, the retailer shall register with the department as a solar energy retailer. By registering, the retailer acknowledges that it will make its books and records relating to sales of solar energy devices available to the department for examination.

O. In computing the tax base in the case of the sale or transfer of wireless telecommunications equipment as an inducement to a customer to enter into or continue a contract for telecommunications services that are taxable under section 42-5064, gross proceeds of sales or gross income does not include any sales commissions or other compensation received by the retailer as a result of the customer entering into or continuing a contract for the telecommunications services.

P. For the purposes of this section, a sale of wireless telecommunications equipment to a person who holds the equipment for sale or transfer to a customer as an inducement to enter into or continue a contract for telecommunications services that are taxable under section 42-5064 is considered to be a sale for resale in the regular course of business.

Q. Retail sales of prepaid calling cards or prepaid authorization numbers for telecommunications services, including sales of reauthorization of a prepaid card or authorization number, are subject to tax under this section.

R. For the purposes of this section, the diversion of gas from a pipeline by a person engaged in the business of operating a natural or artificial gas pipeline, for the sole purpose of fueling compressor equipment to pressurize the pipeline, is not a sale of the gas to the operator of the pipeline.

1 S. If a seller is entitled to a deduction pursuant to subsection B,
2 paragraph 16, subdivision (b) of this section, the department may require the
3 purchaser to establish that the requirements of subsection B, paragraph 16,
4 subdivision (b) of this section have been satisfied. If the purchaser cannot
5 establish that the requirements of subsection B, paragraph 16, subdivision
6 (b) of this section have been satisfied, the purchaser is liable in an amount
7 equal to any tax, penalty and interest which the seller would have been
8 required to pay under article 1 of this chapter if the seller had not made a
9 deduction pursuant to subsection B, paragraph 16, subdivision (b) of this
10 section. Payment of the amount under this subsection exempts the purchaser
11 from liability for any tax imposed under article 4 of this chapter and
12 related to the tangible personal property purchased. The amount shall be
13 treated as transaction privilege tax to the purchaser and as tax revenues
14 collected from the seller to designate the distribution base pursuant to
15 section 42-5029.

16 T. For purposes of section 42-5032.01, the department shall separately
17 account for revenues collected under the retail classification from
18 businesses selling tangible personal property at retail:

19 1. On the premises of a multipurpose facility that is owned, leased or
20 operated by the tourism and sports authority pursuant to title 5, chapter 8.

21 2. At professional football contests that are held in a stadium
22 located on the campus of an institution under the jurisdiction of the Arizona
23 board of regents.

24 U. In computing the tax base for the sale of a motor vehicle to a
25 nonresident of this state, if the purchaser's state of residence allows a
26 corresponding use tax exemption to the tax imposed by article 1 of this
27 chapter and the rate of the tax in the purchaser's state of residence is
28 lower than the rate prescribed in article 1 of this chapter, and the
29 nonresident has secured a special thirty day nonresident registration permit
30 for the vehicle as prescribed by sections 28-2154 and 28-2154.01, there shall
31 be deducted from the tax base a portion of the gross proceeds or gross income
32 from the sale so that the amount of transaction privilege tax that is paid in
33 this state is equal to the excise tax that is imposed by the purchaser's
34 state of residence on the nonexempt sale or use of the motor vehicle.

35 V. For the purposes of this section:

36 1. "Aircraft" includes:

37 (a) An airplane flight simulator that is approved by the federal
38 aviation administration for use as a phase II or higher flight simulator
39 under appendix H, 14 Code of Federal Regulations part 121.

40 (b) Tangible personal property that is permanently affixed or attached
41 as a component part of an aircraft that is owned or operated by a
42 certificated or licensed carrier of persons or property.

43 2. "Other accessories and related equipment" includes aircraft
44 accessories and equipment such as ground service equipment that physically
45 contact aircraft at some point during the overall carrier operation.

1 3. "Selling at retail" means a sale for any purpose other than for
2 resale in the regular course of business in the form of tangible personal
3 property, but transfer of possession, lease and rental as used in the
4 definition of sale mean only such transactions as are found on investigation
5 to be in lieu of sales as defined without the words lease or rental.

6 W. For purposes of subsection J of this section:

7 1. "Assembler" means a person who unites or combines products, wares
8 or articles of manufacture so as to produce a change in form or substance
9 without changing or altering the component parts.

10 2. "Manufacturer" means a person who is principally engaged in the
11 fabrication, production or manufacture of products, wares or articles for use
12 from raw or prepared materials, imparting to those materials new forms,
13 qualities, properties and combinations.

14 3. "Modifier" means a person who reworks, changes or adds to products,
15 wares or articles of manufacture.

16 4. "Overhead materials" means tangible personal property, the gross
17 proceeds of sales or gross income derived from which would otherwise be
18 included in the retail classification, and which are used or consumed in the
19 performance of a contract, the cost of which is charged to an overhead
20 expense account and allocated to various contracts based upon generally
21 accepted accounting principles and consistent with government contract
22 accounting standards.

23 5. "Repairer" means a person who restores or renews products, wares or
24 articles of manufacture.

25 6. "Subcontract" means an agreement between a contractor and any
26 person who is not an employee of the contractor for furnishing of supplies or
27 services that, in whole or in part, are necessary to the performance of one
28 or more government contracts, or under which any portion of the contractor's
29 obligation under one or more government contracts is performed, undertaken or
30 assumed and that includes provisions causing title to overhead materials or
31 other tangible personal property used in the performance of the subcontract
32 to pass to the government or that includes provisions incorporating such
33 title passing clauses in a government contract into the subcontract.

34 Sec. 2. Section 42-5159, Arizona Revised Statutes, is amended to read:

35 42-5159. Exemptions

36 A. The tax levied by this article does not apply to the storage, use
37 or consumption in this state of the following described tangible personal
38 property:

39 1. Tangible personal property sold in this state, the gross receipts
40 from the sale of which are included in the measure of the tax imposed by
41 articles 1 and 2 of this chapter.

42 2. Tangible personal property the sale or use of which has already
43 been subjected to an excise tax at a rate equal to or exceeding the tax
44 imposed by this article under the laws of another state of the United
45 States. If the excise tax imposed by the other state is at a rate less than

1 the tax imposed by this article, the tax imposed by this article is reduced
2 by the amount of the tax already imposed by the other state.

3 3. Tangible personal property, the storage, use or consumption of
4 which the constitution or laws of the United States prohibit this state from
5 taxing or to the extent that the rate or imposition of tax is
6 unconstitutional under the laws of the United States.

7 4. Tangible personal property which directly enters into and becomes
8 an ingredient or component part of any manufactured, fabricated or processed
9 article, substance or commodity for sale in the regular course of business.

10 5. Motor vehicle fuel and use fuel, the sales, distribution or use of
11 which in this state is subject to the tax imposed under the provisions of
12 title 28, chapter 16, article 1, use fuel which is sold to or used by a
13 person holding a valid single trip use fuel tax permit issued under section
14 28-5739, aviation fuel, the sales, distribution or use of which in this state
15 is subject to the tax imposed under section 28-8344, and jet fuel, the sales,
16 distribution or use of which in this state is subject to the tax imposed
17 under article 8 of this chapter.

18 6. Tangible personal property brought into this state by an individual
19 who was a nonresident at the time the property was purchased for storage, use
20 or consumption by the individual if the first actual use or consumption of
21 the property was outside this state, unless the property is used in
22 conducting a business in this state.

23 7. Purchases of implants used as growth promotants and injectable
24 medicines, not already exempt under paragraph 16 of this subsection, for
25 livestock and poultry owned by, or in possession of, persons who are engaged
26 in producing livestock, poultry, or livestock or poultry products, or who are
27 engaged in feeding livestock or poultry commercially. For purposes of this
28 paragraph, "poultry" includes ratites.

29 8. Livestock, poultry, supplies, feed, salts, vitamins and other
30 additives for use or consumption in the businesses of farming, ranching and
31 feeding livestock or poultry, not including fertilizers, herbicides and
32 insecticides. For purposes of this paragraph, "poultry" includes ratites.

33 9. Seeds, seedlings, roots, bulbs, cuttings and other propagative
34 material for use in commercially producing agricultural, horticultural,
35 viticultural or floricultural crops in this state.

36 10. Tangible personal property not exceeding two hundred dollars in any
37 one month purchased by an individual at retail outside the continental limits
38 of the United States for the individual's own personal use and enjoyment.

39 11. Advertising supplements which are intended for sale with newspapers
40 published in this state and which have already been subjected to an excise
41 tax under the laws of another state in the United States which equals or
42 exceeds the tax imposed by this article.

43 12. Materials that are purchased by or for publicly funded libraries
44 including school district libraries, charter school libraries, community
45 college libraries, state university libraries or federal, state, county or
46 municipal libraries for use by the public as follows:

1 (a) Printed or photographic materials, beginning August 7, 1985.

2 (b) Electronic or digital media materials, beginning July 17, 1994.

3 13. Tangible personal property purchased by:

4 (a) A hospital organized and operated exclusively for charitable
5 purposes, no part of the net earnings of which inures to the benefit of any
6 private shareholder or individual.

7 (b) A hospital operated by this state or a political subdivision of
8 this state.

9 (c) A licensed nursing care institution or a licensed residential care
10 institution or a residential care facility operated in conjunction with a
11 licensed nursing care institution or a licensed kidney dialysis center, which
12 provides medical services, nursing services or health related services and is
13 not used or held for profit.

14 (d) A qualifying health care organization, as defined in section
15 42-5001, if the tangible personal property is used by the organization solely
16 to provide health and medical related educational and charitable services.

17 (e) A qualifying health care organization as defined in section
18 42-5001 if the organization is dedicated to providing educational,
19 therapeutic, rehabilitative and family medical education training for blind,
20 visually impaired and multihandicapped children from the time of birth to age
21 twenty-one.

22 (f) A nonprofit charitable organization that has qualified under
23 section 501(c)(3) of the United States internal revenue code and that engages
24 in and uses such property exclusively for training, job placement or
25 rehabilitation programs or testing for mentally or physically handicapped
26 persons.

27 (g) A person that is subject to tax under article 1 of this chapter by
28 reason of being engaged in business classified under the prime contracting
29 classification under section 42-5075, or a subcontractor working under the
30 control of a prime contractor, if the tangible personal property is any of
31 the following:

32 (i) Incorporated or fabricated by the contractor into a structure,
33 project, development or improvement in fulfillment of a contract.

34 (ii) Used in environmental response or remediation activities under
35 section 42-5075, subsection B, paragraph 6.

36 (iii) Incorporated or fabricated by the person into any lake facility
37 development in a commercial enhancement reuse district under conditions
38 prescribed for the deduction allowed by section 42-5075, subsection B,
39 paragraph 8.

40 (h) A nonprofit charitable organization that has qualified under
41 section 501(c)(3) of the internal revenue code if the property is purchased
42 from the parent or an affiliate organization that is located outside this
43 state.

44 (i) A qualifying community health center as defined in section
45 42-5001.

(j) A nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that regularly serves meals to the needy and indigent on a continuing basis at no cost.

(k) A person engaged in business under the transient lodging classification if the property is a personal hygiene item or articles used by human beings for food, drink or condiment, except alcoholic beverages, which are furnished without additional charge to and intended to be consumed by the transient during the transient's occupancy.

(l) For taxable periods beginning from and after June 30, 2001, a nonprofit charitable organization that has qualified under section 501(c)(3) of the internal revenue code and that provides residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy, if the tangible personal property is used by the organization solely to provide residential apartment housing for low income persons over sixty-two years of age in a facility that qualifies for a federal housing subsidy.

14. Commodities, as defined by title 7 United States Code section 2, that are consigned for resale in a warehouse in this state in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the United States commodity futures trading commission.

15. Tangible personal property sold by:

(a) Any nonprofit organization organized and operated exclusively for charitable purposes and recognized by the United States internal revenue service under section 501(c)(3) of the internal revenue code.

(b) A nonprofit organization that is exempt from taxation under section 501(c)(3) or 501(c)(6) of the internal revenue code if the organization is associated with a major league baseball team or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

(c) A nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code if the organization sponsors or operates a rodeo featuring primarily farm and ranch animals and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

16. Drugs and medical oxygen, including delivery hose, mask or tent, regulator and tank, on the prescription of a member of the medical, dental or veterinarian profession who is licensed by law to administer such substances.

17. Prosthetic appliances, as defined in section 23-501, prescribed or recommended by a person who is licensed, registered or otherwise professionally credentialed as a physician, dentist, podiatrist, chiropractor, naturopath, homeopath, nurse or optometrist.

18. Prescription eyeglasses and contact lenses.

19. Insulin, insulin syringes and glucose test strips.

20. Hearing aids as defined in section 36-1901.

21. Durable medical equipment which has a centers for medicare and medicaid services common procedure code, is designated reimbursable by medicare, is prescribed by a person who is licensed under title 32, chapter 7, 13, 17 or 29, can withstand repeated use, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of illness or injury and is appropriate for use in the home.

22. Food, as provided in and subject to the conditions of article 3 of this chapter and section 42-5074.

23. Items purchased with United States department of agriculture food stamp coupons issued under the food stamp act of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661, section 4302; 42 United States Code section 1786).

24. Food and drink provided without monetary charge by a taxpayer which is subject to section 42-5074 to its employees for their own consumption on the premises during the employees' hours of employment.

25. Tangible personal property that is used or consumed in a business subject to section 42-5074 for human food, drink or condiment, whether simple, mixed or compounded.

26. Food, drink or condiment and accessory tangible personal property if they are to be prepared and served to persons for consumption on the premises of a public school in a school district during school hours.

27. Lottery tickets or shares purchased pursuant to title 5, chapter 5, article 1.

28. Textbooks, sold by a bookstore, that are required by any state university or community college.

29. Magazines, other periodicals or other publications produced by this state to encourage tourist travel.

30. Paper machine clothing, such as forming fabrics and dryer felts, purchased by a paper manufacturer and directly used or consumed in paper manufacturing.

31. Coal, petroleum, coke, natural gas, virgin fuel oil and electricity purchased by a qualified environmental technology manufacturer, producer or processor as defined in section 41-1514.02 and directly used or consumed in the generation or provision of on-site power or energy solely for environmental technology manufacturing, producing or processing or environmental protection. This paragraph shall apply for fifteen full consecutive calendar or fiscal years from the date the first paper manufacturing machine is placed in service. In the case of an environmental technology manufacturer, producer or processor who does not manufacture paper, the time period shall begin with the date the first manufacturing, processing or production equipment is placed in service.

32. Motor vehicles that are removed from inventory by a motor vehicle dealer as defined in section 28-4301 and that are provided to:

(a) Charitable or educational institutions that are exempt from taxation under section 501(c)(3) of the internal revenue code.

1 (b) Public educational institutions.

2 (c) State universities or affiliated organizations of a state
3 university if no part of the organization's net earnings inures to the
4 benefit of any private shareholder or individual.

5 33. Natural gas or liquefied petroleum gas used to propel a motor
6 vehicle.

7 34. Machinery, equipment, technology or related supplies that are only
8 useful to assist a person who is physically disabled as defined in section
9 46-191, has a developmental disability as defined in section 36-551 or has a
10 head injury as defined in section 41-3201 to be more independent and
11 functional.

12 35. Liquid, solid or gaseous chemicals used in manufacturing,
13 processing, fabricating, mining, refining, metallurgical operations, research
14 and development and, beginning on January 1, 1999, printing, if using or
15 consuming the chemicals, alone or as part of an integrated system of
16 chemicals, involves direct contact with the materials from which the product
17 is produced for the purpose of causing or permitting a chemical or physical
18 change to occur in the materials as part of the production process. This
19 paragraph does not include chemicals that are used or consumed in activities
20 such as packaging, storage or transportation but does not affect any
21 exemption for such chemicals that is otherwise provided by this section. For
22 the purposes of this paragraph, "printing" means a commercial printing
23 operation and includes job printing, engraving, embossing, copying and
24 bookbinding.

25 36. Food, drink and condiment purchased for consumption within the
26 premises of any prison, jail or other institution under the jurisdiction of
27 the state department of corrections, the department of public safety, the
28 department of juvenile corrections or a county sheriff.

29 37. A motor vehicle and any repair and replacement parts and tangible
30 personal property becoming a part of such motor vehicle sold to a motor
31 carrier who is subject to a fee prescribed in title 28, chapter 16, article 4
32 and who is engaged in the business of leasing or renting such property.

33 38. Tangible personal property which is or directly enters into and
34 becomes an ingredient or component part of cards used as prescription plan
35 identification cards.

36 39. Overhead materials or other tangible personal property that is used
37 in performing a contract between the United States government and a
38 manufacturer, modifier, assembler or repairer, including property used in
39 performing a subcontract with a government contractor who is a manufacturer,
40 modifier, assembler or repairer, to which title passes to the government
41 under the terms of the contract or subcontract. For purposes of this
42 paragraph:

43 (a) "Overhead materials" means tangible personal property, the gross
44 proceeds of sales or gross income derived from which would otherwise be
45 included in the retail classification, and which are used or consumed in the
46 performance of a contract, the cost of which is charged to an overhead

1 expense account and allocated to various contracts based upon generally
2 accepted accounting principles and consistent with government contract
3 accounting standards.

4 (b) "Subcontract" means an agreement between a contractor and any
5 person who is not an employee of the contractor for furnishing of supplies or
6 services that, in whole or in part, are necessary to the performance of one
7 or more government contracts, or under which any portion of the contractor's
8 obligation under one or more government contracts is performed, undertaken or
9 assumed, and that includes provisions causing title to overhead materials or
10 other tangible personal property used in the performance of the subcontract
11 to pass to the government or that includes provisions incorporating such
12 title passing clauses in a government contract into the subcontract.

13 40. Through December 31, 1994, tangible personal property sold pursuant
14 to a personal property liquidation transaction, as defined in section
15 42-5061. From and after December 31, 1994, tangible personal property sold
16 pursuant to a personal property liquidation transaction, as defined in
17 section 42-5061, if the gross proceeds of the sales were included in the
18 measure of the tax imposed by article 1 of this chapter or if the personal
19 property liquidation was a casual activity or transaction.

20 41. Wireless telecommunications equipment that is held for sale or
21 transfer to a customer as an inducement to enter into or continue a contract
22 for telecommunications services that are taxable under section 42-5064.

23 42. Alternative fuel, as defined in section 1-215, purchased by a used
24 oil fuel burner who has received a permit to burn used oil or used oil fuel
25 under section 49-426 or 49-480.

26 43. Tangible personal property purchased by a commercial airline and
27 consisting of food, beverages and condiments and accessories used for serving
28 the food and beverages, if those items are to be provided without additional
29 charge to passengers for consumption in flight. For purposes of this
30 paragraph, "commercial airline" means a person holding a federal certificate
31 of public convenience and necessity or foreign air carrier permit for air
32 transportation to transport persons, property or United States mail in
33 intrastate, interstate or foreign commerce.

34 44. Alternative fuel vehicles, ~~as defined in section 43-1086,~~ if the
35 vehicle was manufactured as a diesel fuel vehicle and converted to operate on
36 alternative fuel and equipment that is installed in a conventional diesel
37 fuel motor vehicle to convert the vehicle to operate on an alternative fuel,
38 as defined in section 1-215.

39 45. Gas diverted from a pipeline, by a person engaged in the business
40 of operating a natural or artificial gas pipeline, and used or consumed for
41 the sole purpose of fueling compressor equipment that pressurizes the
42 pipeline.

43 46. Tangible personal property that is excluded, exempt or deductible
44 from transaction privilege tax pursuant to section 42-5063.

1 47. Tangible personal property purchased to be incorporated or
2 installed as part of environmental response or remediation activities under
3 section 42-5075, subsection B, paragraph 6.

4 48. Tangible personal property sold by a nonprofit organization that
5 is exempt from taxation under section 501(c)(6) of the internal revenue code
6 if the organization produces, organizes or promotes cultural or civic related
7 festivals or events and no part of the organization's net earnings inures to
8 the benefit of any private shareholder or individual.

9 49. TANGIBLE PERSONAL PROPERTY PURCHASED BY THE REGULAR, RESERVE OR
10 NATIONAL GUARD COMPONENTS OF THE UNIFORMED SERVICES OF THE UNITED STATES,
11 INCLUDING THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD
12 AND ANY OTHER AGENCY OR INSTRUMENTALITY OF THE UNITED STATES DEPARTMENT OF
13 DEFENSE.

14 B. In addition to the exemptions allowed by subsection A of this
15 section, the following categories of tangible personal property are also
16 exempt:

17 1. Machinery, or equipment, used directly in manufacturing,
18 processing, fabricating, job printing, refining or metallurgical
19 operations. The terms "manufacturing", "processing", "fabricating", "job
20 printing", "refining" and "metallurgical" as used in this paragraph refer to
21 and include those operations commonly understood within their ordinary
22 meaning. "Metallurgical operations" includes leaching, milling,
23 precipitating, smelting and refining.

24 2. Machinery, or equipment, used directly in the process of extracting
25 ores or minerals from the earth for commercial purposes, including equipment
26 required to prepare the materials for extraction and handling, loading or
27 transporting such extracted material to the surface. "Mining" includes
28 underground, surface and open pit operations for extracting ores and
29 minerals.

30 3. Tangible personal property sold to persons engaged in business
31 classified under the telecommunications classification under section 42-5064
32 and consisting of central office switching equipment, switchboards, private
33 branch exchange equipment, microwave radio equipment and carrier equipment
34 including optical fiber, coaxial cable and other transmission media which are
35 components of carrier systems.

36 4. Machinery, equipment or transmission lines used directly in
37 producing or transmitting electrical power, but not including
38 distribution. Transformers and control equipment used at transmission
39 substation sites constitute equipment used in producing or transmitting
40 electrical power.

41 5. Neat animals, horses, asses, sheep, ratites, swine or goats used or
42 to be used as breeding or production stock, including sales of breedings or
43 ownership shares in such animals used for breeding or production.

44 6. Pipes or valves four inches in diameter or larger used to transport
45 oil, natural gas, artificial gas, water or coal slurry, including compressor

1 units, regulators, machinery and equipment, fittings, seals and any other
2 part that is used in operating the pipes or valves.

3 7. Aircraft, navigational and communication instruments and other
4 accessories and related equipment sold to:

5 (a) A person holding a federal certificate of public convenience and
6 necessity, a supplemental air carrier certificate under federal aviation
7 regulations (14 Code of Federal Regulations part 121) or a foreign air
8 carrier permit for air transportation for use as or in conjunction with or
9 becoming a part of aircraft to be used to transport persons, property or
10 United States mail in intrastate, interstate or foreign commerce.

11 (b) Any foreign government for use by such government outside of this
12 state, or sold to persons who are not residents of this state and who will
13 not use such property in this state other than in removing such property from
14 this state.

15 8. Machinery, tools, equipment and related supplies used or consumed
16 directly in repairing, remodeling or maintaining aircraft, aircraft engines
17 or aircraft component parts by or on behalf of a certificated or licensed
18 carrier of persons or property.

19 9. Rolling stock, rails, ties and signal control equipment used
20 directly to transport persons or property.

21 10. Machinery or equipment used directly to drill for oil or gas or
22 used directly in the process of extracting oil or gas from the earth for
23 commercial purposes.

24 11. Buses or other urban mass transit vehicles which are used directly
25 to transport persons or property for hire or pursuant to a governmentally
26 adopted and controlled urban mass transportation program and which are sold
27 to bus companies holding a federal certificate of convenience and necessity
28 or operated by any city, town or other governmental entity or by any person
29 contracting with such governmental entity as part of a governmentally adopted
30 and controlled program to provide urban mass transportation.

31 12. Groundwater measuring devices required under section 45-604.

32 13. New machinery and equipment consisting of tractors, tractor-drawn
33 implements, self-powered implements, machinery and equipment necessary for
34 extracting milk, and machinery and equipment necessary for cooling milk and
35 livestock, and drip irrigation lines not already exempt under paragraph 6 of
36 this subsection and that are used for commercial production of agricultural,
37 horticultural, viticultural and floricultural crops and products in this
38 state. In this paragraph:

39 (a) "New machinery and equipment" means machinery or equipment which
40 has never been sold at retail except pursuant to leases or rentals which do
41 not total two years or more.

42 (b) "Self-powered implements" includes machinery and equipment that
43 are electric-powered.

44 14. Machinery or equipment used in research and development. In this
45 paragraph, "research and development" means basic and applied research in the
46 sciences and engineering, and designing, developing or testing prototypes,

1 processes or new products, including research and development of computer
2 software that is embedded in or an integral part of the prototype or new
3 product or that is required for machinery or equipment otherwise exempt under
4 this section to function effectively. Research and development do not
5 include manufacturing quality control, routine consumer product testing,
6 market research, sales promotion, sales service, research in social sciences
7 or psychology, computer software research that is not included in the
8 definition of research and development, or other nontechnological activities
9 or technical services.

10 15. Machinery and equipment that are purchased by or on behalf of the
11 owners of a soundstage complex and primarily used for motion picture,
12 multimedia or interactive video production in the complex. This paragraph
13 applies only if the initial construction of the soundstage complex begins
14 after June 30, 1996 and before January 1, 2002 and the machinery and
15 equipment are purchased before the expiration of five years after the start
16 of initial construction. For purposes of this paragraph:

17 (a) "Motion picture, multimedia or interactive video production"
18 includes products for theatrical and television release, educational
19 presentations, electronic retailing, documentaries, music videos, industrial
20 films, CD-ROM, video game production, commercial advertising and television
21 episode production and other genres that are introduced through developing
22 technology.

23 (b) "Soundstage complex" means a facility of multiple stages including
24 production offices, construction shops and related areas, prop and costume
25 shops, storage areas, parking for production vehicles and areas that are
26 leased to businesses that complement the production needs and orientation of
27 the overall facility.

28 16. Tangible personal property that is used by either of the following
29 to receive, store, convert, produce, generate, decode, encode, control or
30 transmit telecommunications information:

31 (a) Any direct broadcast satellite television or data transmission
32 service that operates pursuant to 47 Code of Federal Regulations parts 25 and
33 100.

34 (b) Any satellite television or data transmission facility, if both of
35 the following conditions are met:

36 (i) Over two-thirds of the transmissions, measured in megabytes,
37 transmitted by the facility during the test period were transmitted to or on
38 behalf of one or more direct broadcast satellite television or data
39 transmission services that operate pursuant to 47 Code of Federal Regulations
40 parts 25 and 100.

41 (ii) Over two-thirds of the transmissions, measured in megabytes,
42 transmitted by or on behalf of those direct broadcast television or data
43 transmission services during the test period were transmitted by the facility
44 to or on behalf of those services.

45 For purposes of subdivision (b) of this paragraph, "test period" means the
46 three hundred sixty-five day period beginning on the later of the date on

1 which the tangible personal property is purchased or the date on which the
2 direct broadcast satellite television or data transmission service first
3 transmits information to its customers.

4 17. Clean rooms that are used for manufacturing, processing,
5 fabrication or research and development, as defined in paragraph 14 of this
6 subsection, of semiconductor products. For purposes of this paragraph,
7 "clean room" means all property that comprises or creates an environment
8 where humidity, temperature, particulate matter and contamination are
9 precisely controlled within specified parameters, without regard to whether
10 the property is actually contained within that environment or whether any of
11 the property is affixed to or incorporated into real property. Clean room:

12 (a) Includes the integrated systems, fixtures, piping, movable
13 partitions, lighting and all property that is necessary or adapted to reduce
14 contamination or to control airflow, temperature, humidity, chemical purity
15 or other environmental conditions or manufacturing tolerances, as well as the
16 production machinery and equipment operating in conjunction with the clean
17 room environment.

18 (b) Does not include the building or other permanent, nonremovable
19 component of the building that houses the clean room environment.

20 18. Machinery and equipment that are used directly in the feeding of
21 poultry, the environmental control of housing for poultry, the movement of
22 eggs within a production and packaging facility or the sorting or cooling of
23 eggs. This exemption does not apply to vehicles used for transporting eggs.

24 19. Machinery or equipment, including related structural components,
25 that is employed in connection with manufacturing, processing, fabricating,
26 job printing, refining, mining, natural gas pipelines, metallurgical
27 operations, telecommunications, producing or transmitting electricity or
28 research and development and that is used directly to meet or exceed rules or
29 regulations adopted by the federal energy regulatory commission, the United
30 States environmental protection agency, the United States nuclear regulatory
31 commission, the Arizona department of environmental quality or a political
32 subdivision of this state to prevent, monitor, control or reduce land, water
33 or air pollution.

34 20. Machinery and equipment that are used in the commercial production
35 of livestock, livestock products or agricultural, horticultural, viticultural
36 or floricultural crops or products in this state and that are used directly
37 and primarily to prevent, monitor, control or reduce air, water or land
38 pollution.

39 21. Machinery or equipment that enables a television station to
40 originate and broadcast or to receive and broadcast digital television
41 signals and that was purchased to facilitate compliance with the
42 telecommunications act of 1996 (P.L. 104-104; 110 Stat. 56; 47 United States
43 Code section 336) and the federal communications commission order issued
44 April 21, 1997 (47 Code of Federal Regulations part 73). This paragraph does
45 not exempt any of the following:

1 (a) Repair or replacement parts purchased for the machinery or
2 equipment described in this paragraph.

3 (b) Machinery or equipment purchased to replace machinery or equipment
4 for which an exemption was previously claimed and taken under this paragraph.

5 (c) Any machinery or equipment purchased after the television station
6 has ceased analog broadcasting, or purchased after November 1, 2009,
7 whichever occurs first.

8 22. Qualifying equipment that is purchased from and after June 30, 2004
9 through June 30, 2014 by a qualified business for harvesting, transporting or
10 the initial processing of forest products, including biomass, as provided in
11 section 41-1516. To qualify for this exemption, the qualified business must
12 obtain and present its certification from the department of commerce at the
13 time of purchase.

14 C. The exemptions provided by subsection B of this section do not
15 include:

16 1. Expendable materials. For purposes of this paragraph, expendable
17 materials do not include any of the categories of tangible personal property
18 specified in subsection B of this section regardless of the cost or useful
19 life of that property.

20 2. Janitorial equipment and hand tools.

21 3. Office equipment, furniture and supplies.

22 4. Tangible personal property used in selling or distributing
23 activities, other than the telecommunications transmissions described in
24 subsection B, paragraph 16 of this section.

25 5. Motor vehicles required to be licensed by this state, except buses
26 or other urban mass transit vehicles specifically exempted pursuant to
27 subsection B, paragraph 11 of this section, without regard to the use of such
28 motor vehicles.

29 6. Shops, buildings, docks, depots and all other materials of whatever
30 kind or character not specifically included as exempt.

31 7. Motors and pumps used in drip irrigation systems.

32 D. The following shall be deducted in computing the purchase price of
33 electricity by a retail electric customer from a utility business:

34 1. Revenues received from sales of ancillary services, electric
35 distribution services, electric generation services, electric transmission
36 services and other services related to providing electricity to a retail
37 electric customer who is located outside this state for use outside this
38 state if the electricity is delivered to a point of sale outside this state.

39 2. Revenues received from providing electricity, including ancillary
40 services, electric distribution services, electric generation services,
41 electric transmission services and other services related to providing
42 electricity with respect to which the transaction privilege tax imposed under
43 section 42-5063 has been paid.

1 E. The tax levied by this article does not apply to:

2 1. The storage, use or consumption in Arizona of machinery, equipment,
3 materials or other tangible personal property if used directly and
4 predominantly to construct a qualified environmental technology
5 manufacturing, producing or processing facility, as described in section
6 41-1514.02. This paragraph applies for ten full consecutive calendar or
7 fiscal years after the start of initial construction.

8 2. The purchase of electricity by a qualified environmental technology
9 manufacturer, producer or processor as defined in section 41-1514.02 that is
10 used directly in environmental technology manufacturing, producing or
11 processing. This paragraph shall apply for fifteen full consecutive calendar
12 or fiscal years from the date the first paper manufacturing machine is placed
13 in service. In the case of an environmental technology manufacturer,
14 producer or processor who does not manufacture paper, the time period shall
15 begin with the date the first manufacturing, processing or production
16 equipment is placed in service.

17 F. The following shall be deducted in computing the purchase price of
18 electricity by a retail electric customer from a utility business:

19 1. Fees charged by a municipally owned utility to persons constructing
20 residential, commercial or industrial developments or connecting residential,
21 commercial or industrial developments to a municipal utility system or
22 systems if the fees are segregated and used only for capital expansion,
23 system enlargement or debt service of the utility system or systems.

24 2. Reimbursement or contribution compensation to any person or persons
25 owning a utility system for property and equipment installed to provide
26 utility access to, on or across the land of an actual utility consumer if the
27 property and equipment become the property of the utility. This deduction
28 shall not exceed the value of such property and equipment.

29 G. For the purposes of subsection B of this section:

30 1. "Aircraft" includes:

31 (a) An airplane flight simulator that is approved by the federal
32 aviation administration for use as a phase II or higher flight simulator
33 under appendix H, 14 Code of Federal Regulations part 121.

34 (b) Tangible personal property that is permanently affixed or attached
35 as a component part of an aircraft that is owned or operated by a
36 certificated or licensed carrier of persons or property.

37 2. "Other accessories and related equipment" includes aircraft
38 accessories and equipment such as ground service equipment that physically
39 contact aircraft at some point during the overall carrier operation.

40 H. For purposes of subsection D of this section, "ancillary services",
41 "electric distribution service", "electric generation service", "electric
42 transmission service" and "other services" have the same meanings prescribed
43 in section 42-5063.